

Appl. No. 10/017,768

Amendment dated December 30, 2004

Reply to Non-Final Office Action of August 27, 2004

REMARKS

Claims 1-4, 7-15 and 25 are rejected under 35 USC 103(a) as being unpatentable over Duffy et al. (U.S. 6,020,367). The Examiner states that this rejection applies only to those claims that "do not recite cationic polymers". However, since claim 1, et seq., does include the limitation of cationic polymers, shouldn't this rejection therefore be withdrawn?

Duffy et al. teach that ascorbic acid may be stabilized by dissolving it in a polyol solution. They form emulsions in which the ascorbic acid/polyol solution is contained within the oil phase (please refer to the paragraph bridging columns 9 and 10). However, in contrast, Applicants have discovered that the ascorbic acid may be contained within the **water** phase and still remain stable.

Applicants have amended claim 1 by including the limitation of original claim 5. The stable ascorbic acid formulations of Duffy et al. are not designed to be water soluble, in contrast to those of Applicants. In view of this distinction, it is respectfully submitted that Applicants' invention would not have been obvious from the teachings of Duffy et al.

Claims 5 and 6 are rejected under 35 USC 103(a) as being unpatentable over Duffy et al. in view of JP 403246215. In addition to the deficiencies of Duffy et al., as set forth above, it is respectfully submitted that

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one skilled in this field of art would not have been inclined to have combined the teachings of these two references. Duffy et al. applies to "solutions" of ascorbic acid that are formulated into "lotions" (please note Example 1) and "creams" (Example 2), whereas, the JP reference applies to "foams". Since the physical and chemical characteristics as well as application techniques of these respective skin care product are different, it is respectfully submitted that it would have been counter-intuitive for the skilled practitioner to have combined the teachings of both references.

Claims 16-24 are rejected under 35 USC 103(a) as being unpatentable over Duffy et al. in view of Mukherjee et al. (U.S. 5,935,589). These two references attempt to solve the problem of ascorbic acid stability in different ways. As noted previously, Duffy et al. dissolve the acid in a polyol solution whereas Mukherjee et al. utilize pH controlled emulsions. It is respectfully submitted that the skilled practitioner would not have combined the teachings of these two references in such a way that would have lead to Applicants' invention. The withdrawal of this rejection is therefore kindly requested.

Claim 4 has been amended to correct improper claim terminology.

CONCLUSION

In view of the amendments and remarks above, Applicants ask for reconsideration and allowance of all

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pending claims. Should any fees be due for entry and consideration of this Amendment that have not been accounted for, the Commissioner is authorized to charge them to Deposit Account No. 01-1250.

Respectfully submitted,



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